IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HONOURBALE SRI JUSTICE N.V.RAMANA

W.P. No. 6723 OF 2006

Dated : April 6, 2006

Between:

M.Shankaraiah

Petitioner

AND

APSRTC, Musheerabad, Hyderabad,

Rep. by its Vice Chairman &

Managing Director and another

Respondents

THE HONOURBALE SRI JUSTICE N.V.RAMANA

W.P. No. 6723 OF 2006

ORAL ORDER:

Seeking a writ of mandamus declaring the action of the second respondent in retiring the petitioner from service by proceedings dated 17.12.2004 without providing alternative employment, as illegal, and unjust and to consequently direct the respondents to provide alternative employment or to extend the benefits as provided in the Circulars, the petitioner filed this writ petition.

The petitioner joined service of the respondent Corporation as Driver on 6.12.1976 and was promoted as ADC in 1980 and as on the date of retirement i.e. 17.12.2004, he was working as T.I.-I. While so, on 27.11.2004, the petitioner was sent for medical check up and since there was defective vision, he was kept under forced leave. It is further stated that the 2nd respondent without giving him breathing time, obtained letter dated 17.12.2004 from the petitioner and accepting the same, issued the impugned proceedings retiring him from service on the same day with a view to circumvent the mandate of Sec. 47 of the Persons with Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995. It is further averred that in view of the scheme formulated by the respondents providing additional monetary benefits, the retirement of the petitioner without either providing alternative employment or providing additional monetary benefits, is illegal and arbitrary. It is also averred that the petitioner got issued a legal notice on 18.1.2006 which was received by the second respondent on 20.1.2006, but did not respond. Therefore, the petitioner came up with this writ petition.

When this matter came up for hearing, subject to the satisfaction of the petitioner it is agreed by both the counsel that in view of the paucity of employment opportunities in the respondent Corporation, his representation may be considered to provide additional monetary benefits, in view of the scheme envisaged by the respondent Corporation. The learned Standing Counsel for the respondent Corporation further submits that in view of the notice dated 18.1.2006, got issued by the petitioner, the respondents be directed to consider the same in the light of the scheme.

The provisions of Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995, which is a Central Act, came into effect from 7.2.1996 and they apply to all the establishments. Admittedly, the Corporation is a creation of State Act and, therefore, the provisions of the said Act equally apply to the respondent Corporation. If these provisions are read in juxtaposition with Regulation 6A(5)(b) of the Service Regulations, which contemplates that if the driver is found unfit, he shall then be retired on medical grounds and the additional monetary benefit in lieu of employment as envisaged in Regulation 6A(5)(b) of the Regulations, 1964 shall be extended, the petitioner is entitled to additional monetary benefits under the scheme Therefore, the second respondent is directed to consider the representation of the petitioner dated 18.1.2006 in the light of Circular No. PD-40/2005 dated 26.8.2005 and pass appropriate orders within a period of two months from the date of receipt of a copy of this order.

With this direction, the writ petition is disposed of. No order as to costs.

N.V.RAMANA, J.

April 6, 2006

MAS